



04 MAR 2008

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In Re Application of
YANNAU et al.
Application No.: 10/069,693
PCT No.: PCT/UA00/00024
Int. Filing Date: 14 July 2000
Priority Date: 26 August 1999
Attorney Docket No.: 205,516
For: STROBOSCOPIC DISPLAY DEVICE

DECISION

This application is before the Office PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371(c).

On 14 July 2000, applicant filed international application No. PCT/UA00/00024 which claimed a priority date of 26 August 1999 and which designated the United States. The international application named Dmitry Aleksandrovich Yannau as the inventor/applicant for the US only and Sergey Nikolayevich Kharchenko and Hares Youssef as applicants for all designated States except the U.S. Thereafter, on 21 February 2002, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 20 October 2004 indicating that an oath or declaration and the surcharge for filing the oath or declaration after the thirty month period was required. On 21 November 2002, applicant submitted a declaration which identified Sergey Nikolayevich Kharchenko, Hares Youssef and Dmitry Aleksandrovich Yannau as co-inventors and was executed by them.

On 16 February 2005, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 November 2002.

DISCUSSION

A review of international application PCT/UA00/00024 reveals that Sergey Nikolayevich Kharchenko and Hares Youssef were not named as co-inventors in the published international application.

The declaration is unacceptable because Sergey Nikolayevich Kharchenko and Hares Youssef were not listed as inventors on the published application. Applicant has not indicated that a Request for the Recording of A Change to add Sergey Nikolayevich Kharchenko and Hares Youssef as co-inventors under PCT Rule 92*bis* in PCT/UA00/00024 was filed with the RO/UA and granted by the International Bureau prior to the expiration of the 30 month period.

The declaration submitted on 21 November 2002 erroneously identifies Sergey Nikolayevich Kharchenko and Hares Youssef as co-inventors and thus is not in compliance with 37 CFR 1.497(a) and (b). If Sergey Nikolayevich Kharchenko and Hares Youssef were not accepted under PCT Rule 92bis as co-inventors, it is improper to accept the declaration identifying them as co-inventors.

Applicant is advised to provide information regarding how the inventors were added to the international application, that is, Form PCT/IB/306. In the alternative, applicant may wish to consider filing a petition under 37 CFR 1.497(d) to add Sergey Nikolayevich Kharchenko and Hares Youssef as inventors in the U.S. national stage application.

Since a proper declaration or oath, in compliance with 37 CFR 1.497(a) and (b) has not been filed in the above referenced application, the Notification of Acceptance mailed on 16 February 2005 was erroneously issued and is hereby VACATED.


CONCLUSION

For the reasons set forth above, the Notification of Acceptance is VACATED.

The declaration executed by Sergey Nikolayevich Kharchenko and Hares Youssef as a joint inventors in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors as listed in the published international application, is required.

Applicant is advised that he must provide a complete response within the time limit of ONE month from the mail date of this decision. No extension of this time limit may be granted under 37 CFR 1.136 but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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